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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

JAMES EUGENE BAKER,

Petitioner,

v.

STEPHEN SINCLAIR,

Respondent.

NO. C09-5505 RJB/KLS

ORDER GRANTING PETITIONER'S
MOTION FOR EXTENSION OF TIME
TO FILE REPLY

Before the Court is Petitioner's Motion for Extension of Time. Dkt. 17. Petitioner seeks a 90 day extension of time to "seek legal representation" and to complete his reply to Respondent's Motion to Dismiss his habeas petition. *Id.* Respondent does not object to the requested extension of time for Petitioner to file his reply to the Respondent's Answer and for the purpose of seeking to *privately* hire counsel, but argues that Petitioner is not entitled to the *appointment* of counsel. Dkt. 18.

DISCUSSION

Mr. Baker filed his habeas corpus petition on August 19, 2009. Dkt. 1. The court granted Mr. Baker leave to proceed *in forma pauperis* and docketed his petition. Dkts. 4 and 5. On October 1, 2009, Mr. Baker filed a motion for the appointment of counsel. Dkt. 7. That motion was denied. Dkt. 8.

Respondent filed his answer to Mr. Baker's habeas petition and submitted relevant portions of the state court record, arguing that all three of Mr. Baker's habeas claims were

1 unexhausted and procedurally barred. Dkts. 15 and 16. Mr. Baker then filed his motion for an
2 extension of time “to seek legal representation” and to complete his reply. Dkt. 17.

3 As Mr. Baker was previously advised, “there is no right to have counsel appointed in
4 cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required, because the
5 action is civil, not criminal, in nature. Dkt. 8, p. 1. The court also noted that Mr. Baker had
6 adequately set forth and articulated the habeas claims in his petition, and had not yet
7 demonstrated that an evidentiary hearing was necessary or that he was entitled to one. *Id.*
8 However, Mr. Baker is entitled to hire and privately pay for an attorney to represent him in
9 this federal habeas proceeding, without seeking appointment of that attorney through this
10 court.¹


11 Accordingly, it is **ORDERED**:

12 1. Petitioner’s motion for an extension of time to file his reply to Respondent’s
13 Answer (Dkt. 17) is **GRANTED**. Petitioner shall file his reply **on or before March 26,**
14 **2010.**

15 2. The Clerk shall **re-note** Petitioner’s habeas petition for **March 26, 2010.**

16 3. The Clerk shall send copies of this Order to Petitioner and counsel for
17 Respondent.

18 **DATED** this 10th day of December, 2009.

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21 Karen L. Strombom
22 United States Magistrate Judge
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25 ¹ On November 30, 2009, Mr. Baker wrote to counsel for Respondent advising that Mr. Baker will be
26 seeking legal representation from a “DOC contract attorney.” Dkt. 18-2, p. 2.